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FILED
OCT 27 2003
K. [Signature]
CLERK, JOHNSON SUPERIOR CT #1

Defendant.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana and avoid further litigation. This Consent Judgment does not constitute an admission by the Defendant of any wrongdoing, nor shall it be construed as an abandonment by the Attorney General of his position that the Defendant violated Indiana's Home Improvement Contracts Act and Deceptive Consumer Sales Act. The parties consent to entry of a final judgment in this proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

JURISDICTION AND SCOPE OF JUDGMENT

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.

2. The State of Indiana's Complaint for Injunction, Civil Penalties, and Costs states a cause of action pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code §24-5-0.5-1, *et seq.*, and the Home Improvement Contracts Act, Ind. Code §24-5-11-1, *et seq.*

3. The Defendant, Luke Gibson, individually and doing business as Gibson's Landscaping Maintenance, is an individual with a principal place of business located at 2649 Branigin Creek Boulevard, Franklin, Indiana and solicits home improvement work with Indiana consumers.

RELIEF ORDERED

4. The Defendant, his officers, agents, servants, employees, assigns, and attorneys, as well as those persons in active concert or participation with them, is permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. entering into a home improvement contract, as defined by Ind. Code §24-5-11-4, that is not in writing and does not contain the following:
 1. The name of the consumer and the address of the residential property that is the subject of the home improvement;
 2. The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;

3. The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
 4. A reasonably detailed description of the proposed home improvements;
 5. If the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
 6. The approximate starting and completion date of the home improvements;
 7. A statement of any contingencies that would materially change the approximate completion date;
 8. The home improvement contract price; and
 9. Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature.
- b. in the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;

- c. representing expressly or by implication that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses or benefits it does not have which the Defendant knows or should reasonably know it does not have;
- d. representing, expressly or by implication, that Defendant is able to start or complete a home improvement within a stated period of time, or when no time period is stated, within a reasonable time, when Defendant knows or should reasonably know he cannot; and
- e. in the course of entering into home improvement transactions, failing to obtain the necessary license or permits prior to the commencement of any home improvement work.

5. The Defendant shall pay consumer restitution, pursuant to Ind. Code §24-5-0.5-4(c)(2), for Melanie Mills of Indianapolis, Indiana, in the amount of Sixteen Thousand Two Hundred and Thirty-Two Dollars and Sixty-Five Cents (\$16,232.65), payable to the Office of the Attorney General. In the alternative, the Defendant may satisfy this portion of the judgment by paying Ms. Mills the balance owed under the Settlement Agreement executed on September 24, 2003 by Ms. Mills and the Defendant in settlement of litigation filed in the Marion Superior Court under Cause No. 49D07-0209-PL-001663. The parties agree that the consumer restitution portion of this Judgment need not be paid twice and that the State of Indiana will credit the Defendant for any and all payments made pursuant to the Settlement Agreement upon receiving proof of such payments.

6. The Defendant shall pay the Office of the Attorney General, pursuant to Ind. Code §24-5 -0.5-4(c)(3), the amount of Three Hundred Dollars (\$300.00), representing the Plaintiff's costs of investigating and prosecuting this action.

7. The Defendant shall pay civil penalties pursuant to Ind. Code §24-5-0.5-4(g) and Ind. Code §24-5-0.5-8 for the Defendant's knowing and intentional violations of the Deceptive Consumer Sales Act, in the amount of One Thousand Five Hundred Dollars (\$1,500.00), payable to the State of Indiana.

For a total monetary judgment in the amount of Eighteen Thousand Thirty-Two Dollars and Sixty-Five Cents (\$18,032.65) in favor of the Plaintiff, State of Indiana, and against the Defendant, Luke Gibson, individually and doing business as Gibson's Landscaping Maintenance.

CONTINUING JURISDICTION

8. For the purpose of enforcing the provisions of this Consent Judgment, the Defendant waives any objection regarding the Court's jurisdiction to punish for contempt and agrees to appear on proper notice of a failure to comply with any of the provisions of this Judgment.

IN WITNESS WHEREOF, the parties have executed this Consent Judgment
this 16th day of October, 2003.

STATE OF INDIANA
STEVE CARTER
Indiana Attorney General

by:

TJ TJ
Terry Tolliver
Deputy Attorney General
Attorney No. 22556-49

YK
LUKE GIBSON

Approved:

Paul A. Hass
PAUL A. HASS
Counsel for Defendant

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED

this 27th day of OCTOBER, 2003.



Judge, Johnson Circuit Court

Distribution:

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